

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case. No. 23-CR-367 (JMB/JFD)

Plaintiff,

v.

Fo'Tre Devine White (6),

Defendant.

**ORDER ON DEFENDANT'S
MOTION TO DETERMINE
COMPETENCY OF THE
DEFENDANT PURSUANT TO
18 U.S.C. § 4241(a)**

This matter is before the Court on Mr. White's Motion to Determine Competency. (Dkt. No. 192.) The Court orders an examination of Mr. White pursuant to 18 U.S.C. § 4247(b) and orders a report addressing the issues specified in 18 U.S.C. § 4247(c). The Court requests that Assistant United States Attorney Campbell Warner, or another Assistant United States Attorney designated by the U.S. Attorney's Office, make physical and financial arrangements for Mr. White's examination, in consultation with Mr. White's attorney, Matthew Mankey, Esq. The Court will review the report and, if there is reasonable cause to believe that Mr. White is "suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense," will schedule a hearing to determine Mr. White's competency. 18 U.S.C. § 4241(a).

A grand jury of this State and District returned an indictment (Dkt. No. 1) on December 12, 2023 that charged Mr. White with conspiracy to distribute fentanyl, being a felon in possession of a firearm, and possessing a machine gun, in violation of 21 U.S.C.

§§ 841(a)(1), 841(b)(1)(a), 846, and 18 U.S.C. §§ 922(g)(1), 922(o), 924(a)(2), 924(a)(8).

The Hon. Douglas L. Micko ordered Mr. White detained pending trial on December 20, 2023. (Dkt. No. 82.)

Mr. White's counsel filed a Motion to Determine Competency, requesting a psychological evaluation of his client. (Mot. to Determine Competency 1, Dkt. No. 19.) Counsel represents that he has tried to explain "the case, the evidence, and Mr. White's options" in writing, by phone, and in person, but his attempts "have been met with only anger and confusion." (*Id.*) Counsel added that Mr. White's family reports that Mr. White has a family history of serious mental illness, was exposed to illicit drugs in utero, suffered "significant family trauma," and received disability payments for his mental health conditions in childhood. The United States reportedly does not object to the Motion.

On the present record the Court is unable to determine whether there is reasonable cause to believe that Mr. White may presently be incompetent within the meaning of 18 U.S.C. § 4241(a), and so cannot convene a hearing at this time. The Court will nevertheless proceed under 18 U.S.C. § 4241(b) and order that a psychiatric or psychological examination of Mr. White be conducted, and that a psychiatric or psychological report be prepared and filed under seal with the Court, pursuant to 18 U.S.C. §§ 4241(a) and (b) and 4247(b) and (c). Upon receipt and review of the report, the Court will decide whether there is reasonable cause that Mr. White may be incompetent. If there is, the Court will schedule a hearing pursuant to 18 U.S.C. §§ 4241(c) and 4247(d).

Pursuant to 18 U.S.C. § 3161(h)(1)(A), the delay resulting from the proceedings

(including the examination) to determine Mr. White's competency is excluded from the Speedy Trial Act's calculations of the time in which this case must be brought to trial. The excludable time begins on the day Mr. White filed his motion—April 12, 2024—and will end with the entry of an Order of this Court on his competency.

Accordingly, based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Defendant White' s Motion to Determine Competency of the Defendant Pursuant to 18 U.S.C. § 4241(a) (Dkt. No. 192) is **GRANTED** as follows:

1. Mr. White will undergo a psychiatric or psychological examination pursuant to 18 U.S.C. §§ 4241(b) and 4247(b);
2. The Attorney General must conduct the examination in a suitable facility as close as is practicable to the Court;
3. Counsel for the Government shall provide both Mr. White's Motion and this Order to the examiner as soon as that individual is identified;
4. The Attorney General must file the psychiatric or psychological report, pursuant to 18 U.S.C. § 4247(c), **within thirty days of the date of this Order;**
5. The period between the date of Mr. White's filing on April 12, 2024, and the determination of Mr. White's mental competence shall be excluded from Speedy Trial Act computations pursuant to 18 U.S.C. § 3161(h)(1)(A); and
6. The deadlines in the Amended Pretrial Scheduling and Litigation management Order (Dkt. No. 86) are **STAYED** as to Defendant White until the Court rules

on his competency.

Dated: April 15, 2024

s/ John F. Docherty

JOHN F. DOCHERTY

United States Magistrate Judge